

AMENDED IN SENATE APRIL 21, 2003

**SENATE BILL**

**No. 793**

**Introduced by ~~Senator Vasconcellos~~ *Senators Vasconcellos and Alpert***

February 21, 2003

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An act to amend ~~Section 66902~~ *Sections 44832 and 44955* of the Education Code, relating to ~~postsecondary~~ education, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 793, as amended, Vasconcellos. ~~Postsecondary education: California Postsecondary Education Commission Education: employees.~~

*Existing law requires a classroom teacher, by May 15 of each year, to notify the employing school district of whether her or she will return to a teaching position in the following school years. Existing law limits the circumstances in which a permanent or probationary school employee may be deprived of his or her position. Existing law permits termination of such employees in specified instances and requires that notice of termination of services be given before May 15 and in the prescribed manner.*

*This bill would instead require that any notice of intent to return of an employee or any notice of termination of services of the district be given before June 15.*

*This bill would declare that it is to take effect immediately as an urgency statute.*

~~Existing law, known as the Donahoe Higher Education Act, sets forth, among other things, the missions and functions of California's public and independent segments of higher education, and their~~

respective institutions of higher education. Among other things, the act establishes the California Postsecondary Education Commission as the statewide postsecondary education planning and coordinating agency and advisor to the Legislature and the Governor. Existing law requires the commission to provide data to the Legislature and the Governor through the completion and submission of various reports and studies. Existing law also provides that the commission has power to require the governing boards and institutions of public postsecondary education to submit data on prescribed subjects.

This bill would expand the authority of the commission by authorizing it to require the governing bodies and institutions of each segment of public postsecondary education to submit data on any matters deemed pertinent by the commission. The bill would also require the commission to submit an annual report to the chairs of the budget committees of both houses of the Legislature and to the Legislative Analyst regarding the record of the various segments of postsecondary education in responding to the commission's requests for information.

Vote: ~~majority~~ <sup>2/3</sup>. Appropriation: no. Fiscal committee: ~~yes~~ *no*. State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1     ~~SECTION 1.~~ Section 66902 of the Education Code is
- 2     ~~SECTION 1.~~ Section 44832 of the Education Code is
- 3     ~~amended to read:~~
- 4     44832. (a) Notwithstanding Section 44842, and except for
- 5     employees who are notified pursuant to Section 44955, each
- 6     classroom teacher shall, by ~~May 15~~ *June 15* of each year, inform
- 7     the employing school district whether he or she intends to return
- 8     to a teaching position for the following school year.
- 9     (b) The school district and the exclusive bargaining
- 10    representative may agree to include provisions regarding the
- 11    requirements of subdivision (a) in any collective bargaining
- 12    agreement applying to classroom teachers.
- 13    (c) This section ~~shall apply~~ *applies* only to teachers in school
- 14    districts having an average daily attendance of less than 2,500.
- 15    ~~SEC. 2.~~ Section 44955 of the Education Code is amended to
- 16    ~~read:~~

44955. (a) ~~No~~ A permanent employee ~~shall~~ *may not* be deprived of his or her position for causes other than those specified in Sections 44907 and 44923, and Sections 44932 to 44947, inclusive, and ~~no~~ a probationary employee ~~shall~~ *may not* be deprived of his or her position for cause other than as specified in Sections 44948 to 44949, inclusive.

(b) ~~Whenever~~ (1) *If* in any school year the average daily attendance in all of the schools of a district for the first six months in which school is in session ~~shall have~~ *has* declined below the corresponding period of either of the previous two school years, ~~whenever~~ *if* the governing board determines that attendance in a district will decline in the following year as a result of the termination of an interdistrict tuition agreement as defined in Section 46304, ~~whenever~~ *if* a particular kind of service is to be reduced or discontinued not later than the beginning of the following school year, or ~~whenever~~ *if* the amendment of state law requires the modification of curriculum, and when in the opinion of the governing board of the district it ~~shall have become~~ *is* necessary by reason of any of these conditions to decrease the number of permanent employees in the district, the governing board may terminate the services of not more than a corresponding percentage of the certificated employees of the district, permanent as well as probationary, at the close of the school year. Except as otherwise provided by statute, the services of ~~no~~ a permanent employee *may not* be terminated under the provisions of this section ~~while~~ *if* any probationary employee, or any other employee with less seniority, is retained to render a service which ~~said~~ *the* permanent employee is certificated and competent to render.

~~In~~

(2) *In* computing a decline in average daily attendance for purposes of this section for a newly formed or reorganized school district, each school of the district shall be deemed to have been a school of the newly formed or reorganized district for both of the two previous school years.

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(3) *As* between employees who first rendered paid service to the district on the same date, the governing board shall determine the order of termination solely on the basis of needs of the district and ~~the students thereof~~ *its pupils*. Upon the request of any employee whose order of termination is so determined, the

governing board shall furnish in writing no later than five days prior to the commencement of the hearing held in accordance with Section 44949, a statement of the specific criteria used in determining the order of termination and the application of the criteria in ranking each employee relative to the other employees in the group. This requirement that the governing board provide, on request, a written statement of reasons for determining the order of termination ~~shall~~ *may* not be interpreted to give affected employees any legal right or interest that would not exist without such a requirement.

(c) (1) Notice of ~~such the~~ termination of services shall be given before the 15th of ~~May~~ *June* in the manner prescribed in Section 44949, and services of ~~such the~~ employees shall be terminated in the inverse of the order in which they were employed, as determined by the board in accordance with the provisions of Sections 44844 and 44845. ~~In the event that~~ *If* a permanent or probationary employee is not given the notices and a right to a hearing as provided for in Section 44949, he or she shall be deemed reemployed for the ensuing school year.

~~The~~

(2) The governing board shall make assignments and reassignments in such a manner that employees shall be retained to render any service which their seniority and qualifications entitle them to render. However, prior to assigning or reassigning any certificated employee to teach a subject which he or she has not previously taught, and for which he or she does not have a teaching credential, or which is not within the employee's major area of postsecondary study or the equivalent thereof, the governing board shall require the employee to pass a subject matter competency test in the appropriate subject.

(d) Notwithstanding subdivision (b), a school district may deviate from terminating a certificated employee in order of seniority for either of the following reasons:

(1) The district demonstrates a specific need for personnel to teach a specific course or course of study, or to provide services authorized by a services credential with a specialization in either pupil personnel services or health for a school nurse, and that the certificated employee has special training and experience necessary to teach that course or course of study or to provide those services, which others with more seniority do not possess.

(2) For purposes of maintaining or achieving compliance with constitutional requirements related to equal protection of the laws.

*SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:*

*In order to allow school districts to adjust their budgets in conformance with the current fiscal crisis, it is necessary that this act take effect immediately.*

~~amended to read:~~

~~66902. (a) The commission is authorized to require the governing bodies and institutions of each segment of public postsecondary education to submit data on any matters deemed pertinent by the commission.~~

~~(b) Each fiscal year, immediately prior to the deliberations of the Legislature relating to the budget for the segments of public postsecondary education, the commission shall submit a report to the chairs of the budget committees of both houses of the Legislature and to the Legislative Analyst regarding the record of the various segments in responding to the commission's requests for information.~~

~~(c) The commission shall furnish timely information in response to requests of the Governor or the Legislature.~~